

115TH CONGRESS
1ST SESSION

S. 339

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, FEBRUARY 6), 2017

Mr. NELSON (for himself and Ms. COLLINS) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Widow’s Tax
5 Elimination Act of 2017”.

1 **SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SUR-**
2 **VIVOR BENEFITS PLAN SURVIVOR ANNUITIES**
3 **BY DEPENDENCY AND INDEMNITY COM-**
4 **PENSATION.**

5 (a) REPEAL.—

6 (1) IN GENERAL.—Subchapter II of chapter 73
7 of title 10, United States Code, is amended as fol-
8 lows:

9 (A) In section 1450, by striking subsection

10 (e).

11 (B) In section 1451(c)—

12 (i) by striking paragraph (2); and

13 (ii) by redesignating paragraphs (3)

14 and (4) as paragraphs (2) and (3), respec-
15 tively.

16 (2) CONFORMING AMENDMENTS.—Such sub-
17 chapter is further amended as follows:

18 (A) In section 1450—

19 (i) by striking subsection (e);

20 (ii) by striking subsection (k); and

21 (iii) by striking subsection (m).

22 (B) In section 1451(g)(1), by striking sub-
23 paragraph (C).

24 (C) In section 1452—

25 (i) in subsection (f)(2), by striking

26 “does not apply—” and all that follows

1 and inserting “does not apply in the case
2 of a deduction made through administra-
3 tive error.”; and

4 (ii) by striking subsection (g).

5 (D) In section 1455(c), by striking “,
6 1450(k)(2),”.

7 (b) PROHIBITION ON RETROACTIVE BENEFITS.—No
8 benefits may be paid to any person for any period before
9 the effective date provided under subsection (f) by reason
10 of the amendments made by subsection (a).

11 (c) PROHIBITION ON RECOUPMENT OF CERTAIN
12 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-
13 ENTS.—A surviving spouse who is or has been in receipt
14 of an annuity under the Survivor Benefit Plan under sub-
15 chapter II of chapter 73 of title 10, United States Code,
16 that is in effect before the effective date provided under
17 subsection (f) and that is adjusted by reason of the
18 amendments made by subsection (a) and who has received
19 a refund of retired pay under section 1450(e) of title 10,
20 United States Code, shall not be required to repay such
21 refund to the United States.

22 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY
23 FOR DEPENDENT CHILDREN.—Section 1448(d) of such
24 title is amended—

1 (1) in paragraph (1), by striking “Except as
2 provided in paragraph (2)(B), the Secretary con-
3 cerned” and inserting “The Secretary concerned”;
4 and

5 (2) in paragraph (2)—

6 (A) by striking “DEPENDENT CHIL-
7 DREN.—” and all that follows through “In the
8 case of a member described in paragraph (1),”
9 and inserting “DEPENDENT CHILDREN ANNU-
10 ITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—
11 In the case of a member described in paragraph
12 (1)”; and

13 (B) by striking subparagraph (B).

14 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY
15 ELIGIBLE SPOUSES.—The Secretary of the military de-
16 partment concerned shall restore annuity eligibility to any
17 eligible surviving spouse who, in consultation with the Sec-
18 retary, previously elected to transfer payment of such an-
19 nuity to a surviving child or children under the provisions
20 of section 1448(d)(2)(B) of title 10, United States Code,
21 as in effect on the day before the effective date provided
22 under subsection (f). Such eligibility shall be restored
23 whether or not payment to such child or children subse-
24 quently was terminated due to loss of dependent status
25 or death. For the purposes of this subsection, an eligible

1 spouse includes a spouse who was previously eligible for
2 payment of such annuity and is not remarried, or remar-
3 ried after having attained age 55, or whose second or sub-
4 sequent marriage has been terminated by death, divorce
5 or annulment.

6 (f) EFFECTIVE DATE.—This section and the amend-
7 ments made by this section shall take effect on the later
8 of—

9 (1) the first day of the first month that begins
10 after the date of the enactment of this Act; or

11 (2) the first day of the fiscal year that begins
12 in the calendar year in which this Act is enacted.

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